

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**ELOUISE PEPION COBELL, et al.,**

**Plaintiffs,**

**v.**

**GALE NORTON, Secretary of  
the Interior, et al.,**

**Defendants.**

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**Civil Action Number 96-1285 (RCL)**

**ORDER**

This matter comes before the Court on defendants’ “Motion to Amend Protective Order, if necessary, to Respond to House of Representatives Request to Provide Copy of Ernst and Young Report,” filed January 15, 2002. Defendants simultaneously filed a motion to withdraw their motion pending before the Special Master to exempt from filing under seal the same Ernst and Young report.

The Court finds that the Ernst and Young Report was properly marked “Subject to Privacy Act/Protective Order” by the defendants themselves, and that the report is in fact covered by the Court’s Protective Order of November 27, 1996, an order drafted by defendants themselves and stipulated to by defendants. Unless the Court’s 1996 Order is modified by this Court, defendants may not disclose the report except in accordance with the terms of the 1996 Order.

The Court finds that the filing of this motion is itself a violation of the Secretary’s fiduciary duty to the trust beneficiaries, and the motions are hereby DENIED. Secretary Norton has demonstrated once again her total inability to understand the role of a trustee in relation to a beneficiary by seeking to release to Congress—knowing that it will be made public—the

confidential financial information of these beneficiaries.

Either Committee of Congress is free to seek to have this Court modify its protective order to allow disclosure of the report. Should such a motion be filed, the Court will be obliged to consider the relevant legal questions surrounding possible release of the report, including whether release is in the public interest. What the Court will not do, however, is entertain a totally improper request from Secretary Norton.

Plaintiffs' motion to extend time to respond to the motion to amend the protective order is DENIED as moot.

SO ORDERED.

Date: \_\_\_\_\_

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Royce C. Lamberth  
United States District Judge